

A critical review of the roles and functions of traditional leaders

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Abstract

The epitome of pre-colonial African history and culture is embedded within the institution of Traditional Leadership. Yet, this institution is still mired by much controversy and the cloud of being seen as not fitting the principles of democracy while it needs to remain relevant to its subjects. Having survived both the colonial and apartheid eras in South Africa, it still faces legislative control in the Post-1994 era. The discourses presented in this paper advance the contested views regarding the legislative control by the state over the institution of traditional leadership. Within rural areas, the institution is perceived by local citizens as independent and a valuable institution, upholding gender justice and cultural rights. Providing focused attention to the abuse of women, this paper offers insights from empirical evidence in KwaZulu-Natal on a prominent role played by Senior Women Traditional Leaders in addressing women abuse in rural communities.

Introduction

The outright rejectionists argue for the total irrelevance of the institution of traditional leadership and validate its uncivilised and barbaric nature lens through which it was branded by colonialists (Ndlovu-Gatsheni, 2014). In the same breath, the predisposed colonised detractors assume a position of labelling it backwards (Moodley, 2012) and unable to move with the times. However, the institution of traditional leadership has since pre-colonial times acted as a beacon of hope and serves as an exemplar of upholding African “history, culture, laws, values, religion, and communitarian governance espoused during pre-colonial sovereignty” (Ray, 2003: 5). The institution remains relevant for people living in rural areas of South Africa as it maintains Afrocentric traditional and cultural interests (George and Binza, 2011; Tshitangoni and Francis, 2016; and Matshabaphala, 2017). Traditional leaders are valued for encouraging democratic styles of leadership, facilitating conflict resolution and being “representatives of community identity, unity, continuity, and stability” (Logan, 2013: 355). If these are qualities embraced as a lifestyle; who is better placed to cast a judgement and thereby take intentional exclusionary steps towards suppressing locally resonating management systems.

In the Post-1994 era, the branding of tradition and culture practiced by Black Africans has clouded even the judgement of intellectuals that sit and contribute to public policies drafted for congenial adherence to the democratic state. Within the de-colonial agenda, there needs to be concerted efforts by policy makers to critically reflect on the restoration of traditional and cultural practices that in the past successfully maintained law and order within rural communities. Even in contemporary times, the role of traditional leaders continues to resonate as a reliable source that offers critical support to people in rural areas (Mathonsi and Sithole, 2017).

While deemed relevant to people by its nature of business and constitutional grounding, the institution of traditional leadership can however not shy away from developmental changes that affect South Africa. In the past, “the ethos of traditional society was enshrined in an oral, legal, religious, and literary tradition through which the community transmitted its customs, values, and norms from generation to generation” (Nobadula, 2013: 39). In contemporary times, the innovative transformation realised by the country demands fast-paced changes that would deem prosperous existence of the institution alongside such developments obstructive and ambiguous if it remains stagnant in the past. The authors of this paper reject the pathological view that the institution of traditional leadership is resistant to the ANC-led government changes. Based on the insights from an empirical study, the paper presents an argument that Senior Women Traditional Leaders (SWTL) play a critical role in addressing the abuse of women within rural communities in the province of KwaZulu-Natal.

Historical prominence given to the Institution of Traditional Leadership

Prior to colonialism, traditional leaders were perceived as a symbol of unity, were religious leaders, guardians of culture, customs and values, defended and acted as judges of the people (George and Binza, 2011). These qualities amplified the unifying ability essentially embedded within traditional leadership. During that era, Africans understood traditional leaders to possess massive power and authority and drew gratification from such a leadership qualities (Dodo, 2013). The similarities born of leadership were such that even at the dawn of misunderstandings and condemnation, abandonment and parting from the traditional leadership that one belonged to was unlikely (Dodo, 2013). Parting ways in itself would risks leaving behind their family graves which were central and symbolic to everyday communal life with the ancestors (Dodo, 2013). Thus, Africans enjoyed a sense of belonging (Akyeampong and Fofack, 2014) and association which influenced most of their actions and behaviour. Thereby, institutions such as marriage were utilised to promote friendly ties and mutual respect (Koyana, 2013). Marriage also promoted peace, tolerance and interrelations beyond traditional geographic and cultural boundaries which in turn ensured that governance was not autocratic and therefore did not rest with traditional leaders.

According to Twikirise (2014: 76), prior to being altered, African “ways of helping and solving problems...were largely informal, micro-level operations carried through the family, kinship, and local chiefdoms and based on mutual aid and collective action facilitated by traditional customs and culture.” In this way, life was inclusive, made easy, but demanded accountability and valuing from everyone. Retrospectively, it means African communities (men and women alike) relied on each other to solve their problems. Such lifestyle ensured that community values of “sharing; mutual aid; caring for others; interdependence-relying on each other for the fulfilment of one’s needs; solidarity-unity that is based on shared interest, feelings and aspirations; reciprocal obligation and social harmony are respected” (Lawrings, 2016: 735).

The succession through the male blood-line within the institution of traditional leadership for the inherited positions of senior traditional leaders has been a practice over the years. According to Chauke (2015: 35), “the institution of traditional leadership was founded and grounded in the patrilineal system, whereby only the firstborn male children were afforded the

opportunity to succeed their fathers”. However, this stance has never precluded women from becoming leaders within the institution. The colonial and apartheid defining and subjection of women to inconsequential quality than men through patriarchy mislead many views (Chauke, 2015). As such, the focus has been misdirected to take attention away from the important roles and responsibilities of men and women within the institution. Sesanti (2016) firmly oppose biased views that African culture marginalise women instead of highlighting that historical African culture and traditional practices that shared and maintained power within respective roles power of women and men.

Pre-colonial African life honoured women and their power was permeated within communities. According to Weir (2006: 4), women in those times were powerful, and “their leadership took a variety of forms, sometimes military, but more often economic and religious.” The leadership of women was beyond fulfilling social functions and providing labour and formed an integral part of essential systems. Thus, African traditional leadership was lawful (Ndlovu-Gatsheni, 2014) and women were not excluded (Twikirise, 2014). A study conducted in the Baswelu village of Tanzania further bore reference that the abuse of women was averted through rituals, taboos, songs and proverbs which were traditionally believed to have been used to protect women from abuse in pre-colonial times (Kanyamala, 2010). Such findings reverberates various strategies that were used to prevent the abuse of women.

The thinking that democracy must be praised for harmonising male primogeniture with equality in South Africa (Chauke, 2015) stands to be disputed on the grounds of first regaining accurate pre-colonial African lessons on how women were treated within the institution of traditional African communities. It can be argued that succession disputes within the institution of traditional leadership were not necessarily targeting women but have been the order of the day even when rightful heirs were known. As Matshidze (2013) argues, there has never been outright automated succession within the institution of traditional leadership.

This invalidates the claim made by Ncapayi and Tom (2015: 88) that “the inclusion of women in traditional government structures by the democratic government adds democratic value and credibility to the institution of traditional leadership, which for many years remained essentially male-dominated.” There is evidence to corroborate the critical role of women within traditional leadership. The core failure needs to be associated with little consideration given to the strides of women within position of commanding power and leadership. The research conducted by Dodo (2013: 29), noted that, “women have always been part of the traditional leadership though they have been behind the scenes.” Thus, African literature does not downplay the support women have given to men despite men accruing all accolades of wisdom and fierce decision-making abilities (Dodo, 2013). This denotes that women have maintained powerful influence behind the leadership positions occupied by men within traditional communities. Dodo (2013) also noted leadership positions in which women’s capability surpassed men. For instance, Ndlovu (2008) recollected the roles and functions of the Zulu Regents Queen Mkabayi [*sic*] who ruled ebaQulusini and officiated over the annual first fruits ceremony. Queen Mkabayi was celebrated for her capacity to solve problems, her fearless and confrontational fight against corruption and her direct participation in war within the Zulu Kingdom (Ndlovu, 2008). Similarly, her twin sister Queen Mmama oversaw enTonteleni and commanded respect where

launching of military campaign prior to consulting with her was prohibited (Ndlovu, 2008). These are contrary representations of feeble women given the suggestive evidence of decisiveness towards protecting the Zulu Kingdom. Thus, Sesanti (2016) and Kasongo (2010) advocate for total blame on colonialism for seizing the cultural practice of respecting women and replacing it with rendering African women vulnerable. Women were respected even beyond their graves. During the times of King Shaka, punishment was ceased once culprits sought refuge at the graves of Queens Nqumbazi and Mkabayi (Sesanti, 2016). The respect of women has always been an inherent African culture practice (Segueda, 2015). It is therefore a misleading assumption that the abuse of women is peculiar to African traditional communities.

Despite the imposed Western cultural ideologies within the institution of traditional leadership, Africans still rely on their culture and tradition to match life expectations (Kang'ethe, 2014). SWTL in KwaZulu-Natal relied on old African practices when intervening in cases where women had been abused. Despite the modern controversy surrounding virginity testing and boys' circumcision, respect for women, virginity testing for girls, and the circumcision of boys were such strategies applied to ensure that order and peace were maintained. SWTL stressed that respect has been an important cultural practice accorded to women within African communities. Respected not only for their roles but also as individual human beings, the scourge of women abuse was believed to have been fuelled by the loss of such an important trait.

Early interventions through virginity testing of girl children and circumcision of boy children were suggested to play a critical role in detecting abuse in girls and diverting perpetration of women abuse by boys. Virginity testing assisted in detecting unreported sexual abuse of girls. SWTL had the power to intervene and prioritise girl-child wellbeing by reporting abuse matters particularly in situations where it was difficult for mothers of victims to report. With regards to male circumcision, SWTL would encourage older men to engage with young boys and discourage the abuse of women. Older men were viewed as important anchors and role players of socialisation of young boys.

Men and women's forums were also viewed as powerful platforms for use in early intervention. As a shared responsibility to address the abuse of women, SWTL saw it fit that in their areas, men talk as men and women talk as women on this issue way before incidents of abuse happen.

Disruptions over the Institution of Traditional Leadership

South Africa experienced the harshest colonial and apartheid regimes that subjected African people to suffering as their traditional and cultural ways of life became under siege and had to adapt to foreign control and alteration. A particular key strategic point of disruption in order to get to the people within traditional communities was the institution of traditional leadership,

which according to Tshitangoni and Francis (2016) was entrusted with leadership since pre-colonial times. The distortions exerted unto the institution were conceptualised by the colonial regime which passed the baton to the apartheid era that intensified targeting of traditional administrative and governance structures (Ehrenreich-Risner, 2013). Power and privilege were not only the infiltrations of both colonialism and apartheid over the institution of traditional leadership, but leadership reform against local traditional community expectations formed an integral part of intentional divisions created between leaders and the local communities.

Burns (2002) considers that Africa had no peace during the pre-colonial era and its liberation was depended on its submission to colonialism. This assertion ignored the dynamics of co-existence and assumed irresponsible incognito to liberalism while sacrificing Africans. Colonialists solidified their ideology of promoting an agenda portraying Africa a violent and an ungovernable Continent. Other contributions such as that of Stauffacher (2013) postulate Africa having had a long history of autocratic leadership style. Such are perceptions that according to Ray (2003) fuel the Western hegemonic relations with Africa and suggested a mockery of the roles and functions of the institution of traditional leadership as a system of governance.

It was during colonialism that land and property, and subsequently culture and dignity, were taken away from Africans. Deliberate weakening strategies were introduced to render the institution ineffective when peace institutions were impossible to destroy (Mohamed, 2018). Colonialism taught Africans from a young age to reject the tenets of African knowledge as both barbaric and superstitious (Ndlovu-Gatsheni, 2013). As Twikirise (2014) suggests, colonialism is an architect for African's identity crisis.

In his novel *"Things fall apart"*, Chinua Achebe (1958) expounds a clear transition and abandonment of the gods and ancestors by Africans who marked the beginning of embracing an imposed ideology. As a result, African practices struggle to occupy their initial central position among Africans (Ndlovu-Gatsheni, 2014). This remains a challenge that influenced the loss of many important cultural practices (Kang'ethe, 2014). The roles occupied by traditional leaders, women and the customary law are among the many that were effectively weakened (Sesanti, 2016). While maliciously birthing patriarchy by depicting African males as oppressors of women, colonialists repudiated the humanity of women and rendered insignificant their position within African communities (Mutua, 2016). This move is a result seen today where communities and families are breaking and the grip of families over conflict resolution is disappearing. Due to "a poisonous mix of culture, colonial-era laws, and religious practices," African women and girls are... atrociously subjected to "domestic violence and exclusions from land and property ownership" (Dodo, 2013: 39). Colonialism not only introduced moral decay, but weakened customs, rituals, tradition and culture, thereby causing irreparable damage to African life.

Taking over from Colonialism, Apartheid was a segregation regime that advanced legislative measures to ensure any African traditional forms of leadership and governance are suppressed (Houston and Mbele, 2011). The racialized legislation was introduced to further dismantle African traditional leadership as the core Africa structure and used the institution as its

implementation agent (Ehrenreich-Risner, 2013). Apartheid's advancement of colonial agenda (Williams, 2010) dismissed and ousted rebellious traditional leaders (Houston and Mbele, 2011). As a result, Apartheid gave birth to the dark cloud of disputes that continues to engulf the institution of traditional leadership (Ehrenreich-Risner, 2013) where royal families now demand for rightful heirs to be recognised. The circumstantial irony is that liberty has been created to enable dragging the institution into common law court battles as attempts are made to restore and redress legitimacy issues. Traditional leadership is rendered ineffective to manage its affairs. Not only does such court battles disparage the position of the institution within traditional communities but also creates lasting divisions within royal families.

Sizani (2017) writes on the continued control of the apartheid legislation over the functioning of traditional courts imposing limited criminal jurisdiction and function under the Department of Justice and Constitutional Development. By implication of Section 39(2) of the Constitution of South Africa, traditional courts, tribunals or forums can develop customary law in traditional communities (Moodley, 2012). However, institutions within traditional leadership are non-judicial bodies and have no jurisdiction to develop customary law (Moodley, 2012). Although Moodley (2012) pins the probability of the traditional court qualifying as a judicial body to develop customary law; traditional courts do not preside over landmark cases such as that of *Shilubana vs Mnwamitwa* (SA 66 (CC), 2008). The guilty verdict of the case of King Buyelekhaya Dalindyebo of the *AbaThembu* in the Eastern Cape Province of South Africa was also bent from a common law court and never tried on the merits of any traditional body. Again, the institution of traditional leadership was deprived possibilities of first constituting an *AmaXhosa* traditional court relevant to his clan stature or comprising the Nguni tribe at large were denied. It is clear that when tradition and common law are at crossroads, common law takes precedence. The power exercised by traditional leaders is therefore illegitimate because it originates from the state rather than traditional communities (Williams, 2010).

In contemporary African government, influence is derived from Eurocentric ideology in exerting some degree of external control on traditional leadership (du Plessis and Scheepers, 1999; Moodley, 2012; Williams, 2010; Dodo, 2013 and Sizani, 2017). Modern African states as stated by Igboin (2016) install traditional leaders and various new expectations that affect the nature and rule of the institution are imposed (Williams, 2010). At varying degrees, several African countries have adopted Eurocentric control of the institution of traditional leadership. For example, the confirmation and endorsement of traditional leaders in Zimbabwe is a function entrusted to the state (Dodo, 2013). The Kenyan government treats traditional leaders similar to civil servants through appointments and compensation while the state in Botswana has rendered traditional leaders powerless (Dodo, 2013).

A rod cannot be spared for the current democratic South Africa which commenced in 1994 following the first democratically-held elections. According to Ray and Reddy (2003), the democratic era also bears contributory traits towards eroding important aspects and disregarding traditional leadership. Failure has in particular been identified around inability to fully embrace and restore the lost functions and strengths of traditional leadership that would enable meaningful contribution to development in rural areas. As pointed out by Bikam and Chakwizira (2014), democracy is hailed for recognising and giving constitutional effect to the

institution through Chapter 12 of the South African Constitution (Act 108 of 1996 as amended) but it has equally failed to practically restore the responsibilities of traditional leaders. The current roles and functions of traditional leaders are legislated through the Traditional Leadership and Governance Framework Act (Act 41 of 2003) (George and Binza, 2011). However, the state has a questionable objective of transforming the institution as outlined by the Department of Traditional Affairs (2011). While this objective is pitched at a level of enhancing cooperation between the state and the institution of traditional leadership, it contains a subtle management implication by the state. Thus, control measures that were put in place during colonialism and apartheid are still being legislatively advanced. For instance, while the recognition of the institution of traditional leadership is a Constitutional mandate implying its autonomy, the repeal and amendment of positions; and the regulation of customary law is done by statute (du Plessis and Scheepers, 1999). Through the Traditional Leadership and Governance Framework Act (Act 41 of 2003), the state also tampers with the roles of traditional leaders (Williams, 2010). Traditional leaders are expected to perform the roles where they “provide order and security, solve disputes and allocate land in the community” (Williams, 2010: 7). However, unlike in the past practices, traditional leaders are expected to issue permission to occupy certificates for land allocations and are limited in the types of court cases they preside over (Williams, 2010) given in the past, court decisions taken by traditional leaders were announced verbally and were based on the principles of trust and mutual respect. The Apartheid laws introduced handing over of certificates to traditional leaders as proof to their positions (Ehrenreich-Risner (2013), and this performance is currently legislated in South Africa as per the Traditional Leadership and Governance Framework Act (Act 41 of 2003). Thus, the post-1994 democratic government continues to control and endorse the recognition and appointment of traditional leaders and traditional councils (Sizani, 2017) who are regarded illegitimate until such time their recognition and appointment is sanctioned by the state. To seal the deal, the state offer salary remunerations for traditional leaders.

Conclusion

The disruptions injected on the institution of traditional leadership during colonial and apartheid regimes still stand grounds during democracy in South Africa given the intentional crises mode these were set at. Interrogation of the current legislative prescripts suggests continual control maintained by the State over the institution of traditional leadership. At a rate at which Africans are still adhering to their tradition and culture, agenda setting to fight the abuse of women needs to aim at treating the institution of traditional leadership as an equal contributor to finding solutions. Efforts that tap into old traditional African cultural practices served as important contributors applied by Senior Women Traditional Leaders when addressing the abuse of women. Thus, policy interventions for this heinous crime need to incorporate culture and tradition in order to resonate and become useful for fighting the scourge within traditional rural communities

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